

**Notice of Allowability**

Application No.

09/162,768

Examiner

Andrew Y. Koenig

Applicant(s)

HENDRICKS ET AL.

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 5/27/05. *AL 7/13/05*
2. ☒ The allowed claim(s) is/are 1,3-15,20-35,37-40,42,43,62,64-80,82-98,101-104,107-113,115,116 and 120-145, renumbered 1-111.
3. ☒ The drawings filed on 27 May 2005 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material

5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_



CHRIS GRANT  
PRIMARY EXAMINER

09/162768  
06/22/2005 WLANSO 00000002 200782  
120-00 DA  
01 F 1251

**DETAILED ACTION**

**EXAMINER'S AMENDMENT**

1. An extension of time under 37 CFR 1.136(a) is required in order to make an examiner's amendment which places this application in condition for allowance. During a telephone conversation conducted on 22 June 2005, Stephen Guzzi requested an extension of time for 1 MONTH(S) and authorized the Director to charge Deposit Account No. 20-0782/SEDN/5315 the required fee of \$120 for this extension and authorized the following examiner's amendment. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows: Please cancel claims 41 and 114 and amend claims 22 and 125.

Claim 41. (Cancelled)

Claim 114. (Cancelled)

In claim 22, line 1, "claim I" has been changed to -- claim 1 --

In claim 125, line 1, "claim II 8" has been changed to -- claim 118 --

### REASONS FOR ALLOWANCE

2. Claims 1,3-15,20-35,37-40,42,43,62,64-80,82-98,101-104,107-116,118 and 120-145 are allowed, renumbered 1-111.

3. The following is an examiner's statement of reasons for allowance:

Prior art of record fails to teach or reasonably suggest a first tuner coupled to a set top terminal that receives both television program signals and digital audio signals (where the digital audio signals represent audio programs) from a television program delivery system and a hardware upgrade with a second tuner that tunes the selected audio program based on a user selection.

Whereas claim 80 does not specifically recite a hardware upgrade, claim 80 recite, "means .. for processing the digital audio signals representing the audio programs, where the means for processing comprises a second means for tuning a selected audio program." As per 35 USC 112- sixth paragraph, this limitation invokes the corresponding structure, which is the level D hardware upgrade (means .. for processing the digital audio signals representing the audio programs), wherein the hardware upgrade comprises a tuner that tunes the selected audio program.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Drawings***

4. The drawing was received on 27 May 2005. This drawing is acceptable.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Y. Koenig whose telephone number is (703) 306-0399. The examiner can normally be reached on M-Th (7:30 - 6:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (703) 305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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CHRIS GRANT  
PRIMARY EXAMINER